

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

IMPROVING COMMISSION PROCESSES)

PP Docket No. 96-17

COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The Notice of Inquiry ("NOI") in this proceeding requests comments on ways in which Commission Bureaus may improve the speed and quality of service to the public, reduce the burden of unnecessary regulation and use Commission resources more efficiently. With respect to the Common Carrier Bureau ("CCB"), the Commission asks whether there are actions affecting common carriers that it could take to reduce burdens, encourage innovation, and facilitate delivery of new services to consumers. The Commission specifically asks interested parties to address procedural changes made necessary by the Telecommunications Act of 1996.¹

The National Telephone Cooperative Association ("NTCA") is a national association representing approximately 500 small and rural independent local exchanges carriers ("LECs") providing telecommunications services to interexchange carriers and subscribers throughout rural America. Many NTCA members provide cable as a result of having received authority under the prior rural exemption. NTCA member wireline operations are generally not in excess of 50,000 access lines. The companies generally have fewer than 20 employees. They operate and are headquartered in sparsely populated areas where they provide local exchange service or cable

¹ Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 56 (1996) (hereafter 1996 Act).

television. Increasingly, some companies provide wireless services alone or in conjunction with others. The NTCA companies have a substantial stake in improved Commission processes that facilitate their ability to participate in Commission proceedings before the Common Carrier, Wireless and Cable bureaus in a meaningful manner. As competition and convergence progress, they will have to adapt quickly and will be disadvantaged by cumbersome processes that delay the effect of business decisions made in the new environment.

One specific way in which the Commission could improve its processes to the benefit of the public would be for it to determine and publish specific deadlines for acting on various petitions and applications which are not otherwise subject to statutory time limits. Under present procedures, petitions for waiver, review and reconsideration sometimes lag for years without Commission or Bureau action.² In the new competitive environment, where incumbent local exchange carriers nevertheless are subject to more regulation than their competitors, delays in obtaining Commission decisions effectively violate the principle of competitive neutrality in the 1996 Act. NTCA therefore proposes that all waiver requests be acted upon within 90 days of the completion of pleadings, and that petitions for review or reconsideration be acted upon within 180 days.

NTCA expects to comment more extensively on the broad question of reducing regulatory burdens on small LECs in the Further Forbearance docket scheduled to be initiated under Section 401 of the 1996 Act in April 1996. For the interim, NTCA urges the Commission through the CCB to reduce regulatory burdens which may have a disproportional impact on the small

² For example, on March 14, 1996, the Commission released a notice that it had acted on Petitions for Reconsideration regarding the SLC Billing Order which had been filed January 15, 1993.

companies because of their size. For example, small LECs should be exempted from massive data gathering requests whenever possible. In instances where it is essential to obtain data from the small LECs, every effort should be made to consult with the industry before the process begins. The consultative process can prevent wasteful duplication of efforts and resources while streamlining requirements. Additionally, the companies should not be subjected to burdens that are not placed on other providers that are new entrants or potential competitors. The Commission should weigh the effect of burdens and consider the advantages that competitors gain from not having to comply with regulatory requirements before it imposes burdens on incumbents.

The Commission should improve its processes so that remotely situated small companies can participate in proceedings that affect them. NTCA favors electronic filing of all comments and making comments available promptly through electronic medium, whether on the Internet or through some other means. NTCA also favors improvements that make all the Commission's decisions available more promptly. Parties in remote locations could participate more meaningfully if they had the ability to see the full text of Commission notices of proposed rulemaking and decisions as soon as they are released in hard copy in Washington, D.C. Prompt access to the text of notices will be especially crucial in the coming months when the Commission undertakes the many proceedings required by the 1996 Act.

NTCA is not in favor of artificial page limits like the 25 page one imposed in the Notice of Proposed Rulemaking in the universal service proceeding.³ That proceeding will consider a restructuring of the mechanisms that support universal service and a definition of the concept. It

³ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 96-93, *Notice of Proposed Rulemaking and Order Establishing Joint Board*, (released March 8, 1996).

requires consideration of statutory principles that have never before been articulated in the law. An existing regulatory framework must be evaluated and reformed pursuant to these new principles. Numerous new stake holders will be affected by the outcome of the proceeding. This is obviously not a proceeding in which public participation should be confined to a fixed number of words or pages.

NTCA urges the Commission to reform its processes cautiously so as to maintain that essential public participation which gives validity to its decisions. NTCA believes efficiency in the regulatory process can be attained without sacrificing public participation by making use of new computing and communication tools that hasten analysis and facilitate delivery and receipt of information.

In the long run, the public is not served by rules that limit the thoughtful consideration that must be given to a huge issue like universal service or to other issues that will have to be considered under the 1996 Act. The public will be better served by a thorough development of the record than it would be by endless litigation sure to occur after the fact unless adequate consideration is given to the issues in major proceedings required by the 1996 Act.

NTCA commends the Commission for releasing its implementation schedule in connection with the 1996 Act and the bureaus for releasing work plans. The public is well served by knowing in advance the approximate time frame in which issues of concern to them will be addressed and by having the opportunity to plan in advance for participation as well as the effect of new rules or initiatives. NTCA recommends that the Commission issue similar schedules and work plans in connection with other proceedings it must conduct or is planning to conduct. For example, the

Commission could indicate when it will notice and decide petitions for rulemaking.⁴ It could also give the general time frame in which it will issue a notice of proposed rulemaking in connection with the Communications Assistance for Law Enforcement Act which requires it to issue rules on systems security and integrity and recovery of the cost to comply with the law.⁵

NTCA recommends that the planned public information office be given enough discretion to provide specific information on decisional time frames. The public gets no helpful information from statements like, "The matter is pending." Ideally, the proposed "front door" to the CCB should be closer to Commission staff and be in a position to provide more precise information than is presently available from the Office of Public Affairs. NTCA recommends that the proposed information office be given the discretion and tools to assist the public, not only in finding documents and orders but also to aid them in finding information on the status of matters that involve individual proceedings, including those that affect specific parties.

⁴ NTCA and others are still awaiting disposition of a petition for rulemaking filed in 1992 to request a rulemaking to allocate additional frequencies for the Basic Telecommunications Radio Service ("BETRS"). *See*, RM-8159, In the Matter of Petition to Authorize Co-primary Sharing of the 450 Mhz Air-Ground Radiotelephone Service with BETRS.

⁵ 47 U.S.C. § 229.

In summary, Commission processes should be reformed to reduce regulatory burdens while at the same time maximizing public participation in Commission proceedings.

Respectfully submitted,

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March 15, 1996

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing
Comments of the National Telephone Cooperative Association in
PP Docket 96-17 was served on this 15th day of March 1996, by
first-class, U.S. Mail, postage prepaid, to the following persons
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